

Appln. No. 09/846,434

Amendment dated August 17, 2005

Response to Office Action dated May 17, 2005

REMARKS

Reconsideration and allowance of the above-identified application are respectfully requested. Upon entry of this Amendment, claims 51-78 will be pending.

Applicant appreciates the Examiner's indication that dependent claims 55-58, 63 and 64 include allowable subject matter. Accordingly, these claims are written as new claims 73-78, with claims 73 and 77 corresponding to claims 55 and 63, respectively, written in independent form, and claims 74-76 and 78 corresponding to claims 56-58 and 64 written to depend from claims 73 and 77 as appropriate. Hence, these claims should be allowable.

Turning now to the objections and rejections, the Examiner has identified minor informalities in dependent claims 63-65, which have been resolved by the above amendments. The changes to claims 63 and 64 are also reflected in new claims 77 and 78.

The Examiner has also rejected claims 51, 53, 54, 59-61 and 65-72 under 35 U.S.C. § 101 as allegedly claiming the same invention as that of claims 8, 9, 12, 13, 33 and 41-48 of issued related U.S. Patent No. 6,807,165 (the '165 patent). In response to this rejection, claims 51, 53, 54, 59-61, 65-70 and 72 are being amended as indicated above. Accordingly, Applicant respectfully requests that this rejection be withdrawn.

In addition, claims 52 and 62 are rejected as being unpatentable under the judicially created doctrine of obviousness-type double patenting in view of claims 8 and 33, respectively, of the '165 patent in view of U.S. Patent No. 6,868075 to Narvinger. This rejection is respectfully traversed.

Appln. No. 09/846,434

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In the rejection, the Examiner admits that claims 8 and 33 of the '165 patent do not recite that the inter frame time gap (IGTF) has a length different than that of the time slots. However, the Examiner contends that Figures 7-10 of the Narvinger patent teaches an IFTG that have a different length than the time slots of the frame, and contends that one skilled in the art would have found it obvious to employ this feature in the protocol and method defined in claims 8 and 33, respectively, of the '165 patent to achieve the present invention as defined in claims 52 and 62 of the present application. Applicant respectfully disagrees.

Specifically, Applicant respectfully submits that the Narvinger patent describes code division multiple access (CDMA) systems, not ad-hoc multi-hopping networks as recited in claims 52 and 62. Also, although the Narvinger patent may use the term "time gap" (TG), this type of "time gap" is not the same as an IFTG as recited in the rejected claims.

In CDMA systems, several channels are transmitted on the same frequency at the same time. When data from one channel is identified, the signal transmitted for all other channels has the effect of noise on the data. Therefore, creating silence (time gaps) in some channels, allows other channels to improve the quality of reception or to use higher compression rates without losing quality. For this reason, Narvinger makes a correlation between the data rate in some channels and the length of the silence periods (time gaps) in other channels. For example, column 9, lines 23-25 of the Narvinger patents states that as shown in FIGS. 7-10 and 12, the TG is preferably achieved by rate matching and not by a reduction of spreading factor (SF). In other words, transmission can occur during the TG on other channels, and the TG is *within a time*

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frame. On the contrary, as recited in independent claim 51 from which claim 52 depends, *no signals are transmitted in an IFTG which is at the end of a time frame.* Furthermore, as recited in claim 61 from which claim 62 depends, the IFTG is *between frames*, not within a frame as in the Narvinger system.

For these reasons, Applicant submits that one skilled in the art would not have found it obvious or possible to modify the protocol or method as recited in claims 8 and 33 of the '165 patent in accordance with the teachings of the Narvinger patent to achieve the present invention even as defined in independent claims 51 and 61. Hence, dependent claims 52 and 62 should be allowable.

In view of the above, it is believed that the subject application is in condition for allowance, and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned to discuss this application at the number indicated below.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Amendment (along with any documents referred to as attached or enclosed) is being transmitted by facsimile to the United States Patent and Trademark Office, Attention: Examiner Anh Vu H LY, Art Unit 2667, Facsimile Number 571-273-8300, on the date indicated.

Lois Ann Borlase
Printed Name

Lois Ann Borlase
Signature

Date: August 17, 2005

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